

Jul 01, 2019

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

WILLIAM NELSON HUGHES,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

No. 4:19-cv-05109-SMJ

**ORDER SUMMARILY
DISMISSING HABEAS CORPUS
PETITION**

Petitioner William Nelson Hughes, a prisoner at the Coyote Ridge Corrections Center, brings this *pro se* Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus By a Person in State Custody, ECF No. 1. The \$5.00 filing fee has been paid.

PROPER RESPONDENT

An initial defect with the petition is that it fails to name a proper party as a respondent. The proper respondent in a federal petition seeking habeas corpus relief is the person having custody of the petitioner. *Rumsfeld v. Padilla*, 542 U.S. 426 (2004); *Stanley v. Cal. Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994). If the petitioner is incarcerated, the proper respondent is generally the warden of the institution where the petitioner is incarcerated. *See Ortiz-Sandoval v. Gomez*, 81

1 F.3d 891 (9th Cir. 1996). Failure to name a proper respondent deprives federal
2 courts of personal jurisdiction. *See Stanley*, 21 F.3d at 360.

3 EXHAUSTION REQUIREMENT

4 Petitioner challenges his 2018 Benton County guilty plea to a charge of
5 molestation of a minor in the first degree. He received a sentence of 90 months'
6 custody. Petitioner indicates that he did not file a direct appeal. ECF No. 1 at 2.

7 In his grounds for relief, Petitioner argues that the State of Washington has
8 no jurisdiction to decide federal constitutional matters. *Id.* at 5–13. It has long been
9 settled that state courts are competent to decide questions arising under the U.S.
10 Constitution. *See Baker v. Grice*, 169 U.S. 284, 291 (1898) (“It is the duty of the
11 state court, as much as it is that of the federal courts, when the question of the
12 validity of a state statute is necessarily involved, as being in alleged violation of any
13 provision of the federal constitution, to decide that question, and to hold the law
14 void if it violate that instrument.”); *see also Worldwide Church of God v. McNair*,
15 805 F.2d 888, 891 (9th Cir. 1986) (holding that state courts are as competent as
16 federal courts to decide federal constitutional matters). Therefore, Petitioner’s
17 arguments to the contrary lack merit.

18 Additionally, before a federal court may grant habeas relief to a state
19 prisoner, the prisoner must exhaust the state court remedies available to him. 28
20 U.S.C. § 2254(b); *Baldwin v. Reese*, 541 U.S. 27 (2004). Exhaustion generally

1 requires that a prisoner give the state courts an opportunity to act on his claims
2 before he presents those claims to a federal court. *O’Sullivan v. Boerckel*, 526 U.S.
3 838 (1999). A petitioner has not exhausted a claim for relief so long as the petitioner
4 has a right under state law to raise the claim by an available procedure. *See id.*; 28
5 U.S.C. § 2254(c).

6 To meet the exhaustion requirement, the petitioner must have “fairly
7 present[ed] his claim in each appropriate state court (including a state supreme court
8 with powers of discretionary review), thereby alerting that court to the federal
9 nature of the claim.” *Baldwin*, 541 U.S. at 29; *see also Duncan v. Henry*, 513 U.S.
10 364, 365–66 (1995). A petitioner fairly presents a claim to the state court by
11 describing the factual or legal bases for that claim and by alerting the state court “to
12 the fact that the . . . [petitioner is] asserting claims under the United States
13 Constitution.” *Duncan*, 513 U.S. at 365–66; *see also Tamalini v. Stewart*, 249 F.3d
14 895, 898 (9th Cir. 2001) (same). Mere similarity between a claim raised in a state
15 court and a claim in a federal habeas petition is insufficient. *Duncan*, 513 U.S. at
16 365–66.

17 Furthermore, to fairly present a claim, the petitioner “must give the state
18 courts one full opportunity to resolve any constitutional issues by invoking one
19 complete round of the State’s established appellate review process.” *O’Sullivan*,
20 526 U.S. at 845. Once a federal claim has been fairly presented to the state courts,

1 the exhaustion requirement is satisfied. *See Picard v. Connor*, 404 U.S. 270, 275
2 (1971). It appears from the face of the petition and the attached documents that
3 Petitioner has not exhausted his state court remedies for each of his grounds for
4 relief. Indeed, Petitioner affirmatively represents that he did not exhaust his state
5 court remedies.

6 **GROUND FOR FEDERAL HABEAS RELIEF**

7 Petitioner asserts that the Washington State Constitution contradicts the U.S.
8 Constitution regarding the Fifth Amendment right to “presentment or indictment of
9 a Grand Jury.” ECF No. 1. He claims “no bill of indictment” was brought against
10 him, rendering his arrest, conviction, and imprisonment illegal. *Id.*


11 Petitioner seems to argue that because the state courts have defied “federally
12 established procedures and processes for the adjudication of crimes,” only “a court
13 of federal jurisdiction” has jurisdictional authority over his claims. *Id.* His bald
14 assertion that “due process of the law was ignored” is unsupported by his factual
15 allegations. *Id.*

16 The U.S. Supreme Court stated long ago, “Prosecution by information
17 instead of by indictment is provided for by the laws of Washington. This is not a
18 violation of the Federal Constitution.” *See Gaines v. Washington*, 277 U.S. 81, 86
19 (1928). Consequently, Petitioner’s assertions to the contrary presented in his four
20 grounds for federal habeas relief are legally frivolous.

1 Because it plainly appears from the petition and accompanying documents
2 that Petitioner is not entitled to relief in this Court, **IT IS ORDERED** that the
3 petition, ECF No. 1, is **DISMISSED** pursuant to Rule 4 of the Rules Governing
4 Section 2254 Cases in the United States District Courts.

5 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order,
6 enter judgment, provide copies to Petitioner, and close the file. The Court certifies
7 that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be
8 taken in good faith and there is no basis upon which to issue a certificate of
9 appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of
10 appealability is therefore **DENIED**.

11 **DATED** this 1st day of July 2019.

12 
13 SALVADOR MENDOZA, JR.
United States District Judge